

1                                   IN THE UNITED STATES DISTRICT COURT  
2                                   FOR THE DISTRICT OF HAWAII  
3  
4           UNITED STATES OF AMERICA,       )  
5                                   Plaintiff,       )  
6                                   vs.       )  
7           MICHAEL J. MISKE, JR.,       )  
8                                   Defendant.       )  
                                  \_\_\_\_\_ )

                                  CRIMINAL NO. 19-00099-DKW  
                                  Honolulu, Hawaii  
                                  June 24, 2024  
                                  TESTIMONY OF KALEI SANTOS

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10                               PARTIAL TRANSCRIPT OF JURY TRIAL (DAY 91)  
11                               BEFORE THE HONORABLE DERRICK K. WATSON,  
12                               CHIEF UNITED STATES DISTRICT COURT JUDGE

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23                                       United States District Court  
                                      300 Ala Moana Boulevard  
                                      Honolulu, Hawaii 96850

24  
25       Proceedings recorded by machine shorthand, transcript produced  
      with computer-aided transcription (CAT).

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| 1  | I N D E X  |                 |
| 2  | <u>DEFENSE WITNESS:</u>                          | <u>PAGE NO.</u> |
| 3  |  |                 |
| 4  | KALEI SANTOS                                     |                 |
| 5  | DIRECT EXAMINATION BY MR. KENNEDY                | 4               |
| 6  | <u>EXHIBITS:</u>                                 | <u>PAGE NO.</u> |
| 7  | <u>Exhibit 9546-001 was received in evidence</u> | <u>10</u>       |
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1 June 24, 2024 8:47 a.m.

08:42AM 2 THE CLERK: Criminal Number 19-00099-DKW-KJM, United

08:42AM 3 States of America versus Michael J. Miske, Jr.

08:42AM 4 This case has been called for jury trial, Day 91.

08:42AM 5 Counsel, please make your appearances for the record.

08:42AM 6 MR. INCIONG: Good morning, Your Honor. Mark Inciong,

08:42AM 7 Michael Nammar and Aislinn Affinito for the United States. As

08:42AM 8 always, our paralegal Kari Sherman and Special Agent Thomas

08:42AM 9 Palmer are present.

08:42AM 10 THE COURT: Good morning.

08:42AM 11 MR. KENNEDY: Good morning, Your Honor. Michael

08:42AM 12 Kennedy with Lynn Panagakos, Michael Miske, Ashley King and

08:42AM 13 Josh Barry. Good morning to each of you.

08:42AM 14 THE COURT: Good morning. You may all be seated.

08:42AM 15 Good morning to our 16-person jury. We are at June 24th, so

08:42AM 16 this is the last week of the month and hopefully we will make

08:42AM 17 some good progress as we have in previous weeks.

08:42AM 18 --oo0oo--

08:47AM 19 MR. KENNEDY: Your Honor, we call Kalei Santos.

08:47AM 20 THE CLERK: Please raise your right hand.

08:47AM 21 KALEI SANTOS,

08:47AM 22 called as a witness, having been first duly sworn, was examined

08:47AM 23 and testified as follows:

08:47AM 24 THE CLERK: Please state your full name, spelling your

08:47AM 25 last name for the record.

08:47AM 1 THE WITNESS: Kalei Santos, S-A-N-T-O-S.

08:48AM 2 DIRECT EXAMINATION

08:48AM 3 BY MR. KENNEDY:

08:48AM 4 Q Good morning, sir.

08:48AM 5 A Good morning.

08:48AM 6 Q What is it that you do for work?

08:48AM 7 A I -- I own a petroleum company.

08:48AM 8 Q And how long have you owned a petroleum company?

08:48AM 9 A Four years.

08:48AM 10 Q And who do you own the petroleum ownership with?

08:48AM 11 A Chris -- William Bourne.

08:48AM 12 Q William Bourne. Does he also go by Chris Bourne?

08:48AM 13 A Yes.

08:48AM 14 Q All right. How long have you known Chris Bourne?

08:48AM 15 A Thirty-three years.

08:48AM 16 Q All right. And what does your petroleum company do that

08:48AM 17 you and Mr. Bourne are partners in?

08:48AM 18 A We supply fuel to construction companies and businesses.

08:48AM 19 We do fuel for the movies, and the marinas, the boats.

08:48AM 20 Q All right. Now, with respect to Mr. Bourne, do you know

08:48AM 21 whether he knows Mr. Miske?

08:48AM 22 A Yes.

08:48AM 23 Q And do you yourself know Mr. Miske?

08:48AM 24 A Yes, I do.

08:48AM 25 Q All right. So let me ask you this: Do you see Mr. Miske,

08:49AM 1 Michael Miske in the courtroom?

08:49AM 2 A Yes.

08:49AM 3 Q Can you point out where he's seated and an article of  
08:49AM 4 clothing he's wearing and whether he's wearing a tie or not?

08:49AM 5 A He's not wearing a tie. He's right there in the dark blue  
08:49AM 6 blazer.

08:49AM 7 MR. KENNEDY: Your Honor, would the record reflect  
08:49AM 8 that Mr. Santos has identified Mr. Miske?

08:49AM 9 THE COURT: Yes, the record should reflect the witness  
08:49AM 10 Mr. Santos's identification of the defendant Mr. Miske.

08:49AM 11 BY MR. KENNEDY:

08:49AM 12 Q So how long have you known Mr. Miske?

08:49AM 13 A Thirty years.

08:49AM 14 Q How did it come about that you got to know him?

08:49AM 15 A Our -- my girlfriend at the time and his son's mother were  
08:49AM 16 best friends in high school. She lived about five houses away  
08:49AM 17 from my girlfriend at the time. Yeah, we met in about 1994.

08:49AM 18 Q All right. And do you know whether -- from your personal  
08:49AM 19 knowledge with Mr. Miske, whether Chris Bourne and Mr. Miske  
08:49AM 20 know each other?

08:49AM 21 A Yes.

08:49AM 22 Q And tell us about that.

08:50AM 23 A I want to say they lived together briefly with Mike at his  
08:50AM 24 house. They had a tinting business, I believe, together  
08:50AM 25 alongside each other. And they just had the same group of

08:50AM 1 friends while we were in high school and shortly after that.

08:50AM 2 Q All right. And have you continued to keep up with

08:50AM 3 Mr. Miske over the time period that you've known him?

08:50AM 4 A Yeah.

08:50AM 5 Q And are you aware that your partner Mr. Bourne has done so

08:50AM 6 as well?

08:50AM 7 A Yes.

08:50AM 8 Q All right. I would like to show you what has been

08:50AM 9 admitted into evidence as 1-957A.

08:50AM 10 MR. KENNEDY: Let's see. Do you know which government

08:50AM 11 supplement that is?

08:50AM 12 In the 13th supplement, Your Honor.

08:51AM 13 THE COURT: Go ahead.

08:51AM 14 MR. KENNEDY: All right.

08:51AM 15 THE COURT: You said admitted?

08:51AM 16 MR. KENNEDY: I believe 1-957E has been admitted. Did

08:51AM 17 I say A? I apologize.

08:51AM 18 THE COURT: Yeah, you did say A.

08:51AM 19 MR. KENNEDY: All right. It's very small here, and I

08:51AM 20 apologize. 1-957E, as in elephant.

08:51AM 21 THE COURT: 1-957E, as in echo, has been admitted,

08:51AM 22 and, yes, you may show it to the jury.

08:51AM 23 BY MR. KENNEDY:

08:51AM 24 Q All right. Now, sir, have you seen 1-957E prior to coming

08:51AM 25 to court today?

08:51AM 1 A Yes.

08:51AM 2 Q And do you recognize the person that's in the blue shirt?

08:51AM 3 A Yes.

08:51AM 4 Q How is it that you recognize him?

08:51AM 5 A That's Chris.

08:51AM 6 Q And that would be Chris Bourne, your partner?

08:51AM 7 A Yes.

08:51AM 8 Q Okay. And do you see a reflection in the photograph?

08:51AM 9 A I -- I do.

08:52AM 10 Q And do you recognize that as Mr. Miske?

08:52AM 11 A No.

08:52AM 12 Q So based on your experience with Mr. Miske over the

08:52AM 13 30 years you've known him, in looking at this, that would not

08:52AM 14 be Mr. Miske?

08:52AM 15 A That's correct.

08:52AM 16 Q All right. What are some of the differences that you

08:52AM 17 recognize in the photograph, sir?

08:52AM 18 A His hair, it just -- I mean, you can just tell it's not

08:52AM 19 him.

08:52AM 20 MR. KENNEDY: All right. Now, I'd like to -- I

08:52AM 21 believe also -- does this also have sound to it? If we could

08:52AM 22 play that as well?

08:52AM 23 THE COURT: Go ahead.

08:52AM 24 (Video with audio was played.)

08:52AM 25 MR. KENNEDY: And can we play that again?

08:53AM 1 (Video with audio was played.)

08:53AM 2 BY MR. KENNEDY:

08:53AM 3 Q You heard that recording played to you previously,  
08:53AM 4 correct?

08:53AM 5 A Yes.

08:53AM 6 Q All right. And so you've heard it a number of times. Do  
08:53AM 7 you recognize the voice as Mr. Miske?

08:53AM 8 A No.

08:53AM 9 Q Why not?

08:53AM 10 A It just doesn't sound like him.

08:53AM 11 Q All right. And you've had 30 years of experience with  
08:53AM 12 Mr. Miske?

08:53AM 13 A That's correct.

08:53AM 14 MR. KENNEDY: All right. Now, if we can pull up  
08:53AM 15 1-957J.

08:53AM 16 THE COURT: Yes.

08:53AM 17 MR. KENNEDY: Which I believe is admitted in the 13th  
08:53AM 18 supp as well, Your Honor.

08:53AM 19 THE COURT: Yes.

08:53AM 20 BY MR. KENNEDY:

08:53AM 21 Q All right. Do you recognize what's shown in the phone  
08:53AM 22 that we can see in 1-957J?

08:53AM 23 A Yes.

08:53AM 24 Q What is it, sir?

08:53AM 25 A It's one of my trucks.



08:54AM 1 Q All right. And one of your trucks, do you recognize  
08:54AM 2 the -- the shorts that are in the picture, is that anything  
08:54AM 3 that you've ever seen Mr. Miske wear?

08:54AM 4 A No.

08:54AM 5 MR. KENNEDY: All right. We can take that down.

08:54AM 6 BY MR. KENNEDY:

08:54AM 7 Q Now, based upon your 30 years with Mr. Miske and  
08:54AM 8 Mr. Bourne, your partner, have they had a good relationship and  
08:54AM 9 have been friends during that entire time?

08:54AM 10 A As far as I know, yes.

08:54AM 11 Q All right. Now, I want to shift gears just a little bit  
08:54AM 12 -- well, let me ask you this --

08:54AM 13 MR. KENNEDY: If we can pull up 9546-001, which is in  
08:54AM 14 the 72nd supplement and is not yet in evidence, Your Honor.

08:54AM 15 THE COURT: Go ahead.

08:54AM 16 MR. KENNEDY: And if we can blow that up.

08:54AM 17 BY MR. KENNEDY:

08:54AM 18 Q Do you recognize this as a three-way conversation between  
08:55AM 19 Mr. Miske, Mr. Bourne and yourself?

08:55AM 20 A I only see part of it, but yes.

08:55AM 21 Q All right. We'll scroll through.

08:55AM 22 MR. KENNEDY: And then on the second page.

08:55AM 23 All right. If we go back to the first page.

08:55AM 24 BY MR. KENNEDY:

08:55AM 25 Q Do you recognize a phone number for you on this text

08:55AM 1 message thread?

08:55AM 2 A Yes.

08:55AM 3 Q All right. And do you recognize a phone number for

08:55AM 4 Mr. Bourne on this text message thread?

08:55AM 5 A Yes.

08:55AM 6 Q And you're familiar with that number as well?

08:56AM 7 A Yeah.

08:56AM 8 Q And do you recognize a number 7500 as a -- part of a text

08:56AM 9 message thread for Mr. Miske?

08:56AM 10 A Yeah.

08:56AM 11 MR. KENNEDY: All right. At this time, Your Honor, I

08:56AM 12 would move 9546-001 into evidence.

08:56AM 13 THE COURT: Any objection?

08:56AM 14 MS. AFFINITO: No objection.

08:56AM 15 THE COURT: 9546-1 then is admitted without objection,

08:56AM 16 and you may publish.

08:56AM 17 (Exhibit 9546-001 was received in evidence.)

08:56AM 18 BY MR. KENNEDY:

08:56AM 19 Q Now, sir, if we scroll down to the first message, it looks

08:56AM 20 like this is in 2020. "Mike, you have or know a gas plumber?

08:56AM 21 We're looking for someone with good gas knowledge plumbing."

08:56AM 22 Is that an area that you and Mr. Bourne in your

08:56AM 23 business were looking into?

08:56AM 24 A Yes.

08:56AM 25 Q And what would that be for?

08:56AM 1 A Installation of propane tanks.

08:56AM 2 Q All right. And so what kinds of issues come up with those  
08:56AM 3 installations and why is having a good plumbing knowledge and  
08:57AM 4 someone to take care of that?

08:57AM 5 A Well, you need a certified plumber to get an inspection  
08:57AM 6 from HFD and to get permits.

08:57AM 7 Q All right. So I take it that Mr. Bourne and yourself are  
08:57AM 8 reaching out to Mr. Miske for a -- someone who might fill that;  
08:57AM 9 is that --

08:57AM 10 A Correct.

08:57AM 11 MR. KENNEDY: All right. If we slide through.

08:57AM 12 BY MR. KENNEDY:

08:57AM 13 Q Okay. And then it says: "Every time we do a tank swap or  
08:57AM 14 a customer wants to fix something, we always sub it out to a  
08:57AM 15 friend of ours, but he's super fucking expensive. So we're  
08:57AM 16 looking for someone a little more reasonable with gas  
08:57AM 17 knowledge" is what your partner is indicating?

08:57AM 18 A Yes.

08:57AM 19 Q All right. And has that been the situation for your  
08:57AM 20 business with respect to that?

08:57AM 21 A It was at the time, yes.

08:57AM 22 MR. KENNEDY: All right. And then if we can continue.

08:57AM 23 BY MR. KENNEDY:

08:57AM 24 Q And then there's a question, "Who piped your big house?"  
08:57AM 25 from Mr. Bourne, correct?

08:58AM 1 A Yes.

08:58AM 2 Q And then, "We did it ourselves. The next time you folks  
08:58AM 3 are at the yard, take a narrated video of what needs to be  
08:58AM 4 done." Is that correct?

08:58AM 5 A Yes.

08:58AM 6 Q All right. And I believe that with the -- you and your  
08:58AM 7 business have supplied propane to the 6 Lumahai address for  
08:58AM 8 Mr. Miske?

08:58AM 9 A Yes.

08:58AM 10 Q And that would be Mr. Bourne and yourself and that  
08:58AM 11 business, correct?

08:58AM 12 A Yes.

08:58AM 13 Q All right. If we keep going. "Then it's okay. Naked.  
08:58AM 14 Laugh out loud. Life jacket."

08:58AM 15 If we keep going. And then talking about: "We put in  
08:58AM 16 the new crematory oven. I don't know if that's relevant to  
08:58AM 17 what you've got going on. Yeah, it sounds like it. Possible  
08:58AM 18 hotel stuff. The tikis, the barbecues, the jacuzzi, etcetera."

08:58AM 19 And this is in 2020.

08:59AM 20 MR. KENNEDY: If we go to the fourth page and the last  
08:59AM 21 page.

08:59AM 22 BY MR. KENNEDY:

08:59AM 23 Q And then you pipe in, "Thank you, brother. Let me know."  
08:59AM 24 And that's the end of the thread.

08:59AM 25 So this is one example of the communication that

08:59AM 1 continues with yourself, Mr. Bourne and Mr. Miske in your

08:59AM 2 business, correct?

08:59AM 3 A Correct.

08:59AM 4 Q All right. And it wasn't uncommon for each of you to look

08:59AM 5 to the other to assist in your businesses that you've got

08:59AM 6 going, correct?

08:59AM 7 A No.

08:59AM 8 Q And so I understand that there was a time where Mr. Miske

08:59AM 9 was looking for a truck in terms of a vehicle that would allow

08:59AM 10 him to take fuel out to the fishing vessel, and I think he

08:59AM 11 reached out to the two of you about where they may be able to,

08:59AM 12 you know, find one and help that business out, correct?

08:59AM 13 A Correct.

08:59AM 14 Q And that's just an example of the a three-way

08:59AM 15 communication that the three of you had?

09:00AM 16 A Correct.

09:00AM 17 Q All right. Now, I want to switch gears a little bit. You

09:00AM 18 mentioned that your business supplied fuel and other things to

09:00AM 19 the movies; is that right?

09:00AM 20 A Yes.

09:00AM 21 Q Okay. I want to ask you a little bit about do you from

09:00AM 22 time to time work at the movies?

09:00AM 23 A Yes, I did.

09:00AM 24 Q And when you did, what was your role?

09:00AM 25 A Transportation. I was the driver.

09:00AM 1 Q All right. Were you working there in 2015?

09:00AM 2 A Yes.

09:00AM 3 Q And was there a movie, one of the Kong movies coming out  
09:00AM 4 for filming at that time?

09:00AM 5 A Yes.

09:00AM 6 Q All right. In that movie was there a need to have a  
09:00AM 7 number of drivers?

09:00AM 8 A Yes.

09:00AM 9 Q How many were needed?

09:00AM 10 A There was about a hundred slots that needed to be filled.

09:00AM 11 Q All right. And about how many folks did you have that  
09:00AM 12 could fill those hundred slots?

09:00AM 13 A There I was I'd say 75 people that were off the bench,  
09:01AM 14 meaning in the union.

09:01AM 15 Q Okay. And so when you have a discrepancy between 75 and  
09:01AM 16 you need a hundred, what -- what happens in terms of how you  
09:01AM 17 find the other 25?

09:01AM 18 A You hire off the street.

09:01AM 19 Q All right. Do those folks need a -- a CDL?

09:01AM 20 A Not initially.

09:01AM 21 Q Okay. Why is that?

09:01AM 22 A They need to work 30 days with the union and contribute to  
09:01AM 23 the -- the union. After that they're required to have a CDL.

09:01AM 24 Q All right. Do they need any sort of forklift  
09:01AM 25 certifications or anything else other than an active driver's

09:01AM 1 license?

09:01AM 2 A No.

09:01AM 3 Q All right. And so was it during that time that a Wayne  
09:01AM 4 Miller, a Sterling Pedro and Harry Kauhi filled some of those  
09:01AM 5 positions?

09:01AM 6 A Yes.

09:01AM 7 Q And based on your knowledge, how did that happen?

09:01AM 8 A I would assume just from people they knew. It was common  
09:02AM 9 at the office to ask anyone who came in if they knew anyone  
09:02AM 10 else who would be available for couple of months to come and  
09:02AM 11 drive.

09:02AM 12 Q All right. If they're coming in, are they there for sort  
09:02AM 13 of a probationary period, and then they'd have to get a CDL and  
09:02AM 14 other things and join the union to continue?

09:02AM 15 A Yes. It's a 30-day period. You'd have to have 30 days  
09:02AM 16 within a year, and after that you have 60 days to get your CDL  
09:02AM 17 license to qualify to be sworn into the union.

09:02AM 18 Q Okay. Now, on that particular movie were you involved  
09:02AM 19 with a role with transportation for anyone who was on the  
09:02AM 20 movie?

09:02AM 21 A Yes.

09:02AM 22 Q And who was that?

09:02AM 23 A I'm sorry?

09:02AM 24 Q And who was that?

09:02AM 25 A Who did I drive.

09:02AM 1 Q Yes.

09:02AM 2 A The director.

09:02AM 3 Q Okay. And later in the production, did Mr. Miske also  
09:02AM 4 join to drive someone involved with the movie?

09:02AM 5 A Yes.

09:02AM 6 Q And who was that?

09:02AM 7 A Samuel L. Jackson.

09:03AM 8 Q Did you get a sense of the relationship between the two  
09:03AM 9 during that time?

09:03AM 10 A Yeah, they hit it off.

09:03AM 11 Q All right. And so he would have come in later after  
09:03AM 12 Mr. Miller and Mr. Pedro and Mr. Kauhi joined it earlier?

09:03AM 13 A That's correct. He came in when they started filming.

09:03AM 14 Q All right. And the other drivers were needed at a prior  
09:03AM 15 time; is that correct?

09:03AM 16 A Correct.

09:03AM 17 Q All right.

09:03AM 18 MR. KENNEDY: I have nothing further. Thank you.

09:03AM 19 THE COURT: Cross-examination.

09:03AM 20 MS. AFFINITO: No cross.

09:03AM 21 THE COURT: Mr. Santos, you may step down. Thank you,  
09:03AM 22 sir.

23 --oo0oo--

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1 COURT REPORTER'S CERTIFICATE

2 I, Gloria T. Bediamol, Official Court Reporter, United  
3 States District Court, District of Hawaii, do hereby certify  
4 that pursuant to 28 U.S.C. §753 the foregoing is a complete,  
5 true, and correct transcript from the stenographically reported  
6 proceedings held in the above-entitled matter and that the  
7 transcript page format is in conformance with the regulations  
8 of the Judicial Conference of the United States.

9

10 DATED at Honolulu, Hawaii, July 6, 2024.

11

12

13 /s/ Gloria T. Bediamol

14 GLORIA T. BEDIAMOL.

15 RMR, CRR, FCRR

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